

From: Carlo Moneti
To: Microsoft ATR
Date: 12/7/01 9:54am
Subject: some settlement issues

Sir:

"This settlement will promote innovation, give consumers more choices, and provide the computer industry as a whole with more certainty in the marketplace," -Charles A. James, Assistant Attorney General for the Antitrust Division.

A shiver runs down my spine when I hear an assistant Attorney General spew Microsoft propaganda phraseology verbatim, in defense of a settlement against the very same company. But lets concentrate substantive and discussible issues:

What can I say about the settlement agreement. I read the agreement and found it very disappointing; it is so bad that one is led to believe that the Justice Department has simply capitulated to Microsoft. Of particular interest is the requirement to publish API (application programming interface) specifications to guarantee the ability of other software manufacturers to make their products inter-operate with those of Microsoft. Microsoft already publishes its APIs. However, software developers argue that they are published with too much delay--giving Microsoft an extra head start--and are not complete--hiding performance enhancing functions from the competition. APIs should be updated continuously for any major or minor release of any major or minor component. Otherwise, the whole exercise is a joke. There are two huge loopholes just to the API issue. The first is that Microsoft is not bound to publishing APIs to products containing intellectual property of other companies. However, with the huge amount of cross-licensing of intellectual property in the software industry, any Microsoft product can be made to fit into that category. The second is that Microsoft is not bound to publishing APIs that may divulge information about encryption algorithms and other security details. However, encryption algorithms are not secret; to be secure, they must not be. Both of these caveats are baseless from any of scientific, engineering, or business point of view. The agreement does nothing more than specify once again to Microsoft to conduct its business fairly and without prejudice. Well, gee wiz, folks. Don't hold your breath.

And whatever happened to a consideration for a penalty for Microsoft's criminal convictions? How about taking back most of the \$30 billion stockpile Microsoft is sitting on? It's existence is the most obvious measure of monopoly power; no company can amass such wealth in an open and competitive market. Come on DOJ, do your job!

Finally, a parting shot of reality to those who believe that Microsoft is an entity worthy of their praise: Microsoft is simply a

business enterprise out to make a profit for its shareholders; it is not an innovator; it is not a research company; it did not invent the computer; it did not invent DOS; it did not invent the graphical user interface; it did not invent the mouse; it did not invent programming languages; it did not invent word processors or electronic spreadsheets; it did not invent databases or accounting programs; it did not invent the Internet or the web browser or the web server. It has, through huge profits from its monopoly power, bought companies with innovative products, making those its own; it has lobbied Congress to strengthen copyright law and patent law to its benefit; it has made gargantuan profits year after year, measurable by its \$30 billion stockpile of cash reserves. One might admire Microsoft's success from a strictly business savvy perspective. But, the business savvy of Microsoft or Bill Gates is not the same as, and should not be confused with, someone's meritorious work in the public interest that would justly deserve praise, appreciation, esteem, or admiration, by the general public.

Sincerely,
Carlo Moneti
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